XIX(C). COMMENTARY

Rule: To be eligible for exchange under Section XIX, an Electronic Image must be an item that meets the following conditions: it must be one of the type of items defined as a check under Section 229.2(k) of Regulation CC; the item is a Fully Qualified Item* as defined under these Rules; and the Sending Bank must have entered into an agreement with the Receiving Bank and the item must be eligible for imaging under that agreement.

Comment: Electronic Images of the following types of items are defined as checks under Section 229.2(k) of Regulation CC and, provided they meet the other requirements of Section XIX(C)(1), Electronic images of such items are eligible for exchange under Section XIX:

(1) a negotiable demand draft drawn on an office of a bank;
(2) a negotiable demand draft drawn on a Federal Reserve Bank or a Federal Home Loan Bank;
(3) a negotiable demand draft drawn on the Treasury of the United States;
(4) a demand draft drawn on a state or local government that is not payable through or at a bank;
(5) a United States Postal Service money order;
(6) a traveler’s check drawn on or payable through or at a bank; and
(7) a substitute check.

The following types of items, often referred to as "non-cash items," are not defined as checks under Section 229.2(k) of Regulation CC. Accordingly, images of such items are not eligible for imaging under Section XIX:

(a) an item with an attached passbook, certificate, or other document;
(b) an item accompanied by special instructions, such as a request for special advice of payment or dishonor;
(c) an item consisting of more than a single thickness of paper, except an item that qualifies for handling by automated check processing equipment, and
(d) an item that has not been pre-printed or post-encoded in magnetic ink with the Routing Number of the Paying Bank.

With respect the Fully Qualified Item requirement in Section XIX(C)(1)(b.i.), the definition of Fully Qualified Item in Section I of the Rules states that a "fully qualified item" is an item which has full-field MICR encoding (i.e., Routing Number, and when encoded, amount field, on-us field, auxiliary on-us field and EPC field). If an item does not contain an encoded amount field on the MICR line, there is no obligation to encode the amount field on the item or the image of the item, in order for an image of such item to be eligible for image exchange under the Rules. In this regard, temporary account or counter checks that do not have account numbers on them when issued by the bank are considered "fully qualified," and therefore images of such items meet the requirements for check image exchange under Section XIX(C)(1). These types of items are not considered to have RNA Partial MICR Information.

Under Regulation CC, a "noncash item" includes an item that has not been pre-printed or post-encoded in magnetic ink with the Routing Number of the Paying Bank. Accordingly, the paper item from which the Electronic Image was created should have the Routing Number of the Paying Bank encoded with magnetic ink, in order for an image of such item to be eligible for image exchange under the ECCHO Rules. To the extent that an image of a non-magnetic ink item is exchanged under these Rules, the image of the item is subject to the ECCHO Rules and is an Electronic Image. A Sending Bank sending such an Electronic Image to a Receiving Bank may be liable under the warranties in Section XIX(L) for a breach of the warranty to comply with the requirements of the ECCHO Rules. However, the Sending Bank would only be liable to the extent that the loss at the Receiving Bank was "suffered as a result of the breach" of the warranty. That is, the Receiving Bank would have to establish that the lack of magnetic ink on the paper item was the cause of the loss at the Receiving Bank. See Section XIX(L).

Rule: With respect to the requirement in Section XIX(C)(1)(c.i.), a Sending Bank and a Receiving Bank may under their image exchange agreement permit the exchange of images of items that are not fully qualified or otherwise include only As-Read MICR or RNA Partial MICR information in the related Presentment Notices.
Comment: Section XIX(C)(1)(b.i) establishes a default rule that requires an item to be a “fully qualified item” in order to be eligible for imaging. This Rule also provides that a Sending Bank and a Receiving Bank may alter this default rule by separate agreement, and thereby exchange items that are not fully qualified or otherwise include only As-Read MICR or RNA Partial MICR information in the related Presentation Notices.

For example, if a Receiving Bank determines that it will not under any circumstances need to produce a substitute check from an image exchanged with the Sending Bank, the Receiving Bank may decide that it is willing to accept an image of the item that is not fully qualified or accept only As-Read MICR or RNA Partial MICR information in the related Presentation Notices. As a second example, a Receiving Bank may determine that the rate of non-fully qualified items coming from a Sending Bank is at a sufficiently low rate that the Receiving Bank can repair such items without significantly impacting the Receiving Bank’s repair and posting operational deadlines. Alternatively, the Receiving Bank may elect to have non-fully qualified items included in the image transmissions up until a specific deadline, after which only fully qualified items would be eligible. If the Banks enter into such an agreement, the requirements for the partial MICR exchange are set forth in Section XIX(C)(3) and Section XIX(C)(4) and Section XIX(C)(5) shall apply, depending upon the particular type of exchange (such as As-Read MICR or RNA Partial MICR).

Rule: All information from the Routing Number and dollar amount fields of the MICR line from the Related Physical Check or the Electronic Image of the Related Physical Check shall be included in the presentment notice of an Electronic Image.

Comment: Certain paper checks may have a bank Routing Number preprinted in the MICR line that contains eight (8) digits and a dash (this is referred to as the “4–4 format” and is four digits, dash, four digits and no check digit), as opposed to the standard nine digit Routing Number. In this situation, the Sending Bank has the option under the Rules to correct the Routing Number field. An allowable correction (to the MICR line on the check itself or the related Presentation Notice) would be to repair the Routing Number to a 9-digit Routing Number (with no dash and a valid check digit, calculated in accordance with industry standards for check digits), instead of a Routing Number formatted as 4–4 format.

Rule: An item in a carrier is eligible for imaging under these Rules if the item otherwise meets the requirements of Section XIX(C)(1), the front and back of the item is visible through the carrier, and carrier qualifies for handling by automated check processing equipment. If the carrier is encoded, the carrier, and not the item, must be encoded in compliance with the ECCHO Rules.

Comment: Under Regulation CC, items in a carrier that qualify for handling by automated check processing equipment are not considered non-cash items, and as a result such items in a carrier are not excluded from coverage for exchange under the ECCHO Rules. The ECCHO Rules do require that the item in the carrier otherwise meets the requirements for image exchange, and the front and back of the item are fully visible in the carrier. By contrast, for example, if the item in the carrier is mutilated, it is not eligible for exchange as an Electronic Image, however it may qualify for exchange under the rules applicable to exchange of Imperfect Images. See Section XV. While Regulation CC requires that the item in the carrier “qualify” for handling by automated check processing equipment, the item in the carrier does not actually have to be processed in a high-speed or fully automated processing environment in order to be eligible under the Rules for exchange. In the image exchange environment, items in carriers may be processed on remote deposit capture devices or branch capture devices that do not use high-speed pass or a fully automated process to capture the image. If the Sending Bank encodes the carrier, the encoding of the carrier (and not the necessarily the item inside the carrier) must meet the requirements for encoding under the Rules.

Rule: The Sending Bank shall use acceptable industry practices to interrogate all fields (other than Routing Number and dollar amount fields) of the MICR line of the Related Physical Check or the Electronic Image.

Comment: It is recognized that the On-Us field in the MICR line of checks is not uniformly structured for all banks. However, it is expected that a Sending Bank will read all fields on the MICR line of a check when imaging the check for exchange under these Rules.
XIX(C). COMMENTARY (continued)

**Rule:** The Sending Bank shall not include in the electronic MICR line information in the related Presentment Notice any other character (numeric or otherwise) not contained in the MICR line of the Related Physical Check.

**Comment:** If the Sending Bank cannot read all of the MICR line information from the Related Physical Check, or the Related Physical Check is not fully qualified, the Sending Bank shall not include asterisks or other non-numeric characters in the related Presentment Notice. Rather, such an item does not qualify for image exchange under the ECCHO Rules, unless the Receiving Bank has agreed to exchange Electronic Images with Presentment Notices that contain only As-Read MICR or RNA Partial MICR.

**Comment:** Section XIX(C)(2) does not authorize Members to exchange images that are not otherwise eligible for exchange as Electronic Images under these Rules. Rather, it clarifies the coverage of the Rules when a Sending Bank sends an Electronic Image that contains no image or an image of a document that purports to replace the Related Physical Check (also referred to as a “sorry document”). Coverage of these items under the Rules provides certain protections to a Receiving Bank that receives such an image. If a Sending Bank sends an image that is not eligible for exchange as an Electronic Image, such as an image that was not created from a paper check, to another Member as part of an exchange of Electronic Images subject to these Rules, certain of the ECCHO Rules will apply to that image. For example, Bank A and Bank B have agreed to exchange Electronic Images between themselves and they have agreed to apply the ECCHO Rules to such an exchange. Bank A, either inadvertently or intentionally, includes an image that is not eligible for exchange as an Electronic Image in a file that it sends to Bank B under this exchange arrangement, (such as an electronic image of a “sorry document”). Under this Rule, Bank B would have the benefit of the ECCHO warranties and indemnifications with respect to that image, and Bank A’s failure to comply with the ECCHO rules governing items eligible for image exchange would constitute a breach of such a warranty.

Section XIX(C)(2) applies Section XIX(H) (Presentment) and Section XIX(F) (Status of the Electronic Image and Electronic Image Return) to an image that is not eligible for exchange as an Electronic Image in order to provide certainty as to when the Paying Bank has received the image for purposes of processing the image and the application of the time periods for return under the UCC and Regulation CC for that image.

**Rule:** Under Section XIX(C)(3), a Sending Bank and Receiving Bank may enter into an agreement to exchange Electronic Images with related Presentment Notices that contain only As-Read MICR Information. Under Section XIX(C)(4), a Sending Bank and Receiving Bank may enter into an agreement to exchange Electronic Images with related Presentment Notices that contain only RNA Partial MICR Information.

**Comment:** Two or more Members may agree to exchange Electronic Images with related Presentment Notices that contain only As-Read MICR Information or RNA Partial MICR Information. Members are not required to enter into these type of exchange agreements. Absent such agreements, the requirements of Section XIX(C)(1) apply, and the Sending Bank must send the full MICR line information in the Presentment Notice associated with the Electronic Image. If the Members do agree to the exchange of partial MICR information in the Presentment Notices, the requirements of Section XIX(C)(3) or Section XIX(C)(4) shall apply to the Members’ agreement and the resulting exchanges of Electronic Images, unless the agreement of the Members expressly disclaims the applicability of these two subsections of the Rule.

In the context of As-Read MICR, for those characters that the Sending Bank reads, the Sending Bank shall follow applicable industry standards for permissible MICR characters when populating the MICR line information in the presentment notice. For example, this means that the Sending Bank must not include impermissible characters, such as a dash, in the Routing Number field of the MICR line data in the presentment notice.

**Rule:** If the Sending Bank receives the Electronic Image from the truncating entity and the truncating entity is not another ECCHO Member subject to this Rule, the Sending Bank shall impose the requirements in Sections XIX(C)(3) and XIX(C)(4) on the truncating entity, and the failure of a truncating entity to satisfy any of such requirements shall be treated as a failure of the Sending Bank to comply with Sections XIX(C)(3) and XIX(C)(4).
XIX(C). COMMENTARY (continued)

Comment: This provision of Section XIX(C)(5) recognizes that in many cases the Sending Bank obtains the Electronic Image and related presentment notice from another entity, such as a correspondent bank or a merchant that is using a remote deposit capture product. In such a case, the Sending Bank is responsible for ensuring that the truncating entity complies with the requirements for partial MICR exchange in Sections XIX(C)(3) and XIX(C)(4). The Sending Bank can seek to meet this requirement under Section XIX(C) by requiring under its deposit and/or exchange agreements with its correspondent banks and remote deposit capture merchants that such entities must adopt similar procedures as set forth in Sections XIX(C)(3) and XIX(C)(4).

Comment: The Sending Bank and the Receiving Bank must enter into an agreement (in addition to the Rules) addressing items to be imaged under Section XIX. It is recommended that the banks state in that agreement that the ECCHO Rules will apply to those images exchanges, in order to make it clear that the banks want such exchanges governed under the ECCHO Rules. It is anticipated that the banks would in this agreement specify for example the media on which Electronic Images are to be provided to the Receiving Bank (please see Section XIX(G)(1)), whether the Presentment Notice or image transmission is to be encrypted and/or authenticated, the location(s) for the transmission or other delivery of Electronic Images (please see Section XIX(G)(1)) and the Receiving Bank's Image Ledger Cutoff Time (please see Section XIX(H)). In the image-based truncation scenario, the banks also would specify in this agreement such matters as the procedures for retrieval requests and responses to retrieval requests (please see Section XIX(K)), and a retention period different than that provided for in Section XIX(K) if desired by the banks (please see Section XIX(K)). Particularly for those banks participating in the image-based truncation scenario, it also may be appropriate to incorporate in this agreement a reference to the Rules (specifically to Section XIX of the Rules), so that the Rules would continue to govern the arrangement (e.g., the retrieval of Related Physical Checks or copies thereof) in the event ECCHO at some point in the future ceases to exist and the Rules are not assumed by another organization. The item must be eligible for imaging under this agreement. For example, this agreement may provide that the Sending Bank may transmit an Electronic Image to the Receiving Bank only after a specified future date, in order to provide the Receiving Bank time to prepare for its participation in the image program. An item drawn on that Paying Bank that is otherwise eligible for imaging but that has been received by the Sending Bank before the start date specified in this agreement would not be eligible for imaging under Section XIX. Alternatively, the agreement may provide that items will not be imaged if they are drawn in an amount above an agreed to dollar amount. Again, an item drawn on the Paying Bank that is otherwise eligible for imaging but that has been drawn in an amount that exceeds the agreed to dollar cut off would not be eligible for imaging under Section XIX.

Additionally, in the case where not all of the items drawn on the Paying Bank are to be truncated, the Sending Bank and Paying Bank should specify in their agreement how the Sending Bank will identify those items that are to be truncated. In certain cases, it may be the customer of the Paying Bank that will pick and choose the items to be truncated in connection with the program. The Sending Bank and the Paying Bank could for example agree that the Paying Bank or the Paying Bank's customer, as the case may be, will place or arrange for the placement of a “9” in position 44 of the MICR line of items eligible to be truncated under the program. The Sending Bank and Paying Bank may, however, agree to identify an item eligible for the image-based truncation scenario in a way other than through a “9” in position 44 of the MICR line, such as through tables of eligible accounts or through other agreed upon means.

Comment: In addition to a written exchange agreement directly between two ECCHO Members, there are a number of other ways in which two or more ECCHO Members could establish an agreement for purposes of Section XIX(C) and any other provision of the ECCHO Rules that requires an agreement of ECCHO Members.

Set forth below are examples of ways in which two or more ECCHO Members could establish an agreement for purposes of the ECCHO Rules. The following list of examples is not intended to be a conclusive list of all possible types of agreements between ECCHO Members.

(1) An agreement could take the form of clearing house rules that are binding on both the ECCHO Member Sending Bank and the ECCHO Member Receiving Bank and authorize the exchange of Electronic Images under the ECCHO Rules.

(2) For an ECCHO Member that uses a third party processor to handle its forward presentment and return of Electronic Images on behalf of the ECCHO Member (the “serviced bank”), the serviced
XIX(C). COMMENTARY (continued)

bank could authorize the processor to enter into exchange agreements on behalf of the serviced bank with other ECCHO Members and/or payment networks that exchange under the ECCHO Rules. The processor would need sufficient agency authority from the serviced bank under the service agreement or otherwise to enter into exchange agreements with other ECCHO members on behalf of the serviced bank. The serviced bank should recognize that it will have legal obligations under the ECCHO Rules to the other ECCHO Members under the agreements that the processor enters into on behalf of the serviced bank.

(3) For ECCHO Members that exchange through an archive or other payment network, each ECCHO Member could enter into an agreement with the archive/payment network under which the ECCHO Member agrees to exchange images with other ECCHO Members that also use the same archive/payment network. In this case, each Member would have an agreement with the archive/payment network, but no direct agreement with each other.

(4) Two ECCHO Members may form an agreement to exchange images under the ECCHO Rules without an executed (signed) written agreement between the two ECCHO Members. This could be done, for example, through an oral agreement to the ECCHO Rules or through a course of dealing of image exchanges. The oral agreement or course of dealing may be supplemented by written business practice requirements and technical documentation and operational requirements relating to image exchanges, which may or may not reference the ECCHO Rules.